IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 18.04.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice J.A.K.SAMPATHKUMAR

Habeas Corpus Petition No.126 of 2006

Arunachalam ... Petitioner

Vs.

1. The State Government,
rep. by the Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai-600 009.

2.The District Magistrate and District
Collector, Salem District,
Salem. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the entire records pertaining to detention dated 02.12.2005 passed in proceedings CMP.No.1/B.L.A./C2/2005 dated 02.12.2005 by the second respondent herein and quash the same and to produce the petitioner viz., Arunachalam C/o Mari now confined at Central Prison, Salem before this Court and set him at liberty.

For Petitioner : Mr.S.Pushpakaran

For Respondents: Mr.Abudhukumar Rajarathinam
Govt. Advocate (Crl. Side)

WEB COPY

O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner by name Arunachalam, who was detained as a ''Bootlegger" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982(Tamil Nadu Act 14 of 1982), by the impugned

https://hcservices.ecourts.gov.in/hcservices/

detention order dated 2.12.2005, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Government Advocate for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Government Advocate has placed the details, which show that the representation of the detenu dated 02.01.2006 was received by the Government on 03.01.2006 and remarks were called for on 04.01.2006. Thereafter, the remarks were received by the Government on 12.01.2006 and the File was submitted on 13.01.2006 and the same was dealt with by the Under Secretary on the same date i.e. on 13.01.2006 and by the Deputy Secretary on 16.01.2006 and finally, the Minister for Prohibition and Excise passed orders on the same date i.e. on 16.01.2006. The rejection letter was prepared on 30.01.2006 and the same was sent to the detenu on 31.01.2006 and served to him on 03.02.2006. As rightly pointed out by the learned counsel for the petitioner, though the Minister for Prohibition and Excise passed an order on 16.01.2006, there is no explanation at all for taking time for preparation of rejection letter till 30.01.2006. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the time taken for preparation of rejection letter is on the higher side and we hold that the said delay has prejudiced the detenu in disposal of his representation. On this ground, we quash the impugned order of detention.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

raa

Sd/
Asst.Registrar

WEB COPY

/true copy/

Sub Asst.Registrar

https://hcservices.ecourts.gov.in/hcservices/

To

1. The Secretary to the Government, State of Tamil Nadu,Prohibition and Excise Department, Fort St. George, Chennai-600 009.

2.The District Magistrate and District, Collector, Salem District, Salem.

3. The Superintendent, Central Prison, Salem.
(In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

1 cc to Mr.S.Pushpakaran, Advocate, SR.19229

pv (co)

dv/24.4.06

HCP. No.126 of 2006

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/